
DIGEST

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HB 696 Original

2021 Regular Session

Landry

Abstract: Levies a 10% state tax on the transfer of property in La. applicable to estates of decedents dying on or after Jan. 1, 2021.

Present law levies a state estate transfer tax if a state death tax credit is allow against the federal estate tax. However, the Economic Growth and Tax Relief Reconciliation Act of 2001 phased out the state estate tax credit between 2002 and 2005 and replaced the credit with a deduction for state estate taxes for deaths that occur after Dec. 31, 2004. Under present federal law, no state estate and transfer tax is due in La. for deaths after Dec. 31, 2004.

Proposed law repeals present law.

Proposed law levies a state tax on every transfer of property located in this state, including all intangible property owned by a resident. The amount of the tax shall equal 10% of the La. taxable estate value.

Proposed law provides that if any property in the decedent's estate is located outside of La., the tax shall be calculated as a fraction, the numerator of which shall be the value of the property located in La. and the denominator of which shall be the value of the decedent's gross estate which shall be multiplied by the amount of tax due on the transfer of property due pursuant to proposed law.

Proposed law provides that the state estate tax shall be independent of any federal estate tax obligation and shall not be affected by the termination of the federal estate tax.

Proposed law authorizes the secretary of the Dept. of Revenue to provide for a La. election for determination of the amount of state tax due on the transfer of property. The election shall be binding on the estate and all beneficiaries. All other elections or valuations on the state return shall be made in accordance with the federal return if required and as provided by rules and on forms prescribed by the secretary.

Proposed law provides that if a taxpayer makes an election consistent with present federal law, the La. taxable estate of the taxpayer and the surviving spouse shall be adjusted in accordance with proposed law. However, amounts deducted for federal income tax purposes shall be prohibited from being deducted for purposes of computing the state estate transfer tax.

Proposed law requires a taxpayer to file a return on or before the first anniversary of the decedent's death. However, if the La. taxable estate is less than the \$1M, the secretary shall

accept a written declaration from a taxpayer confirming the value of the La. taxable estate in lieu of filing a tax return. Proposed law authorizes the secretary to grant a reasonable extension of time to file the return.

Proposed law requires the state estate transfer tax to be paid on or before the first anniversary of the decedent's death. The secretary may grant an extension of time not to exceed one year to pay the tax.

Proposed law prohibits a judgment of possession from being rendered in any succession proceeding until the state estate transfer tax is paid. Further prohibits an affidavit of small succession from being rendered by a notary public if the La. taxable state exceeds zero.

Proposed law grants the secretary discretion to accept security furnished by the taxpayer to provide for the payment of the tax or to accept payment of the tax via an installment agreement. Proposed law requires the secretary's written acceptance of the installment agreement with the taxpayer to be filed in the succession proceedings.

Proposed law requires the secretary of the Dept. of Revenue to promulgate rules in accordance with the Administrative Procedure Act to administer the tax.

Applicable to deaths occurring on or after Jan. 1, 2021.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 47:1700.1-1700.4; Repeals R.S. 47:2401-2451)